

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS MARSHALL DIVISION**

911 NOTIFY, INC.,

Plaintiff,

v.

OMNILERT, LLC,

Defendant.

C.A. No. 2:17-cv-00072

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.* in which Plaintiff 911 Notify, Inc. (“911 Notify”) makes the following allegations against Omnilert, LLC (“Omnilert” or “Defendant”):

PARTIES

1. 911 Notify, Inc. is a Texas corporation with a principal place of business at 8105 Rasor Blvd, Suite 68, Plano, TX 75024.

2. On information and belief, Omnilert, LLC is a Virginia corporation with a principal place of business at 202 Church Street SE, Suite 516, Leesburg, VA 20175. Omnilert, LLC can be served through its registered agent, Ara H. Bagdasarian, at 40710 Jade Ct, Leesburg, VA 20175.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant in this action because, among other reasons, Defendant has committed acts within this District giving rise to this action and has established minimum contacts with the forum state of Texas. For example, Omnilert has sold its product and/or services in Texas.¹ Defendant directly and/or through subsidiaries or intermediaries (including distributors, retailers, and others), has committed and continues to commit acts of infringement in this District by, among other things, making, using, importing, offering for sale, and/or selling products and/or services that infringe the patent-in-suit. Thus, Defendant purposefully availed itself of the benefits of doing business in the State of Texas, and the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because, among other reasons, Defendant is subject to personal jurisdiction in this District, has committed and continues to commit acts of patent infringement in this District. On information and belief, for example, Defendant has used, sold, offered for sale, and imported infringing products in this District.

BACKGROUND

6. Inventors Don Reich and Kurt Warner have over twenty years of experience in the field of emergency systems, and are named inventors on over a dozen patents covering emergency, cellular, and medical systems, including U.S. Patent No. 6,775,356 (“asserted patent” or “patent-in-suit”).

¹ See, e.g., <http://www.omnilert.com/blog/7-questions-jerry-haynes-eog-resources>; Omnilert, America's Safe Campuses: *West Texas A&M University*, YOUTUBE (Oct. 22, 2011), <https://www.youtube.com/watch?v=lbVDd1j9vk8>.

ASSERTED PATENT

7. 911 Notify is the owner by assignment of U.S. Patent No. 6,775,356 (the '356 'Patent'). The '356 Patent is entitled "Real-time Incident and Response Information Messaging in a System for the Automatic Notification That an Emergency Call Has Occurred from a Telecommunication Device." The '356 Patent issued on August 10, 2004. A true and correct copy of the '356 Patent is attached hereto as Exhibit A.

COUNT I

(Infringement of U.S. Patent No. 6,775,356)

8. Plaintiff re-alleges and incorporates by reference the allegations in the foregoing paragraphs as if fully set forth herein.

9. On information and belief, Defendant makes, uses, offers for sale and/or sell in the United States the Accused Instrumentalities that infringe, literally or under the doctrine of equivalents, various claims of the '356 Patent, and continues to do so. These products and/or services include, for example, Omnilert's emergency notification solutions, including without limitation the Omnilert product, as well as individual features of Omnilert that enable the solutions such as Scenarios. The exemplary infringing products shall be referred to hereinafter as the "Accused Instrumentalities."

10. On information and belief, the Accused Instrumentalities perform a telephone service method within a telephone system that provides notification to identified parties that an emergency call to an emergency service has been made from a subscriber. For example, according to the FCC

Most 9-1-1 systems ***now automatically report the telephone number and location of 9-1-1 calls made from wireline phones.*** Enhanced 9-1-1, or E9-1-1,

improves the reliability of *wireless 9-1-1 calls* by providing public safety and emergency response personnel with the location information of a call so they can *locate and provide assistance to wireless callers more effectively*.²

Further, Omnilert advertises that

A unified mass notification system (MNS) is defined as a platform to deliver a message to a small or large group of people. Traditionally these systems offered one-way message delivery via email, text message or *reverse 911 calling mechanisms*.

Omnilert adds an extended array of features to support companies and government entities with large scale alerting responsibilities including *extraordinary capacity, powerful user management and group segmentation tools, and a wide variety of messaging end points*.³

11. On information and belief, the Accused Instrumentalities perform the step of receiving an alert signal indicating that a call has been placed to said emergency service. For example, Omnilert advertises that “Omnilert is a patent pending mass communication system that allows designated administrators to send time-sensitive messages to the mobile phones, email, and/or pagers of its subscribers. *In the event of an emergency, subscribers can get notified immediately of the situation, wherever they are.*”⁴

12. On information and belief, the Accused Instrumentalities perform the step of collecting real-time data from message content of said call in response to receiving said alert signal, said real-time data being collected within an interval between a time that said emergency call is recognized and a response is initiated. For example, Omnilert advertises that the capability for customer to communicate in both directions by sending alerts in real-time.⁵ In addition, Omnilert advertises that real-time data can be submitted by users, as indicated below.⁶

² See, e.g., <https://www.fcc.gov/general/9-1-1-and-e-9-1-1> (emphasis added).

³ See, e.g., <http://www.omnilert.com/mass-notification-systems/> (emphasis added).

⁴ See, e.g., <http://www.omnilertsupport.com/faq.html> (emphasis added).

⁵ See, e.g., <http://www.omnilert.com/>.

⁶ See, e.g., <http://www.omnilert.com/>.



Instant Conferencing

You can instantly connect your team during a crisis with a secure outbound conference call. Reach everyone on your decision team wherever they are.



Instant Hotline

You can handle thousands of simultaneous callers with your dedicated emergency information hotline – even if your own phones are down.



Mobile Inbound Tipping

You can use tipping to prevent and solve problems faster. Empower anyone in your company to submit tips from any cell phone.

13. On information and belief, the Accused Instrumentalities perform the step of using said alert signal to fetch a subscriber record containing indicia corresponding to said identified parties from a subscriber database. For example, Omnilert advertises that “Omnilert is a patent pending mass communication system that allows designated administrators to send time-sensitive messages to the mobile phones, email, and/or pagers of its subscribers. In the event of an emergency, subscribers can get notified immediately of the situation, wherever they are.”⁷

14. On information and belief, the Accused Instrumentalities perform the step of Activating a message response system in response to said indicia to thereby initiate notification to said identified parties that a call to said emergency service has been made from a subscriber identified by said alert signal, said notification including a message comprised of at least part of said real-time data. For example, Omnilert advertises that

Pre-planning your initial incident ***responses in advance*** allows you to leverage all the skills, talents and expertise of your entire emergency response and leadership teams. ***Scenarios helps your team effectively respond without the distraction of stress and adrenaline of an emergency situation. When an incident occurs, you can have confidence that your initial response will be as effective as possible.***⁸

⁷ <http://www.omnilertsupport.com/faq.html>.

⁸ *Scenarios*, <https://www.omnilert.com/scenarios> (emphasis added).

Omnilert advertises that “Scenarios capture your team’s response plans in a series of specific actions that can be implemented at your command,” as shown in the figures below.⁹



Initiate a Complex Emergency Response in Seconds

How quickly and effectively can your team react when emergencies happen? Omnilert’s Scenarios help you better prepare for emergencies and respond even faster when incidents occur.

Use **Scenarios** to carefully plan complex responses to common incidents so you can have them ready to go at any time.

Use **Scenarios** — or the new **Apple Watch App** — to launch a scenario anytime, anywhere in under 10 seconds directly from your mobile phone.

[SPEAK WITH AN EXPERT](#)

[DOWNLOAD DATASHEET](#)

Scenarios: Prepare Your Response

Optimal emergency response management requires more than simply sending out emergency notification alerts. Successfully managing throughout the full crisis continuum requires careful planning and coordination before, during and after an incident. Scenarios capture your team’s response plans in a series of specific actions that can be implemented at your command.

Scenarios:

Scenario’s are collections of pre-defined Actions. To launch a Scenario, click the corresponding button below. **Please Note: Once a Scenario has been launched, it cannot be stopped.**

Name	
Active Shooter Gunman confirmed on campus	LAUNCH
Crisis Team Conference Call Initiates a uConference	LAUNCH
Inclement Weather Closing General closing due to the weather	LAUNCH
IT Network Outage Internal communications down due to a network failure	LAUNCH
Lockdown Shelter In place due to a general threat	LAUNCH
Power Outage Power has limited the functions of operations	LAUNCH

With one click, you can initiate an entire action sequence

- Send custom text, email and voice messages to each group or department
- Notify local first responders of the situation
- Post social media messages to Twitter and Facebook
- Update your website with a targeted emergency notice
- Display a scrolling message on all employees’ desktops
- Send audible alerts to fire alarms, alert beacons or public address systems
- Initiate an outbound conference call to automatically connect your emergency response team to plan next steps

Pre-planning your initial incident responses in advance allows you to leverage all the skills, talents and expertise of your entire emergency response and leadership teams. Scenarios helps your team effectively respond without the distraction of stress and adrenaline of an emergency situation. When an incident occurs, you can have confidence that your initial response will be as effective as possible.

Scenarios: A Thousand Scenarios in Your Pocket

You never know where you will be when an emergency strikes. Scenarios make it easy to respond in wherever you happen to be.



The native mobile application for iPhone and Android allows Omnilert administrators to quickly initiate complex emergency responses directly from their smart phones.

In less than 10 seconds, you can:

- Log in securely
- Select one of your scenarios
- Initiate your pre-planned response



Omnilert advertises that notifying local first responders of the situation is task that can be incorporated into *Scenario*, as shown above.

⁹ *Scenarios*, <https://www.omnilert.com/scenarios>.

15. On information and belief, Defendant has directly infringed and continue to directly infringe the '356 Patent by, among other things, making, using, offering for sale, and/or selling the '356 Accused Instrumentalities. On information and belief, such products and/or services are covered by one or more claims of the '356 Patent including at least claim 1.

16. By making, using, offering for sale, and/or selling the Accused Instrumentalities infringing the '356 Patent, Defendant has injured 911 Notify and are liable to 911 Notify for infringement of the '356 Patent pursuant to 35 U.S.C. § 271(a) directly and/or under the doctrine of equivalents.

17. In addition, Defendant actively induces others, including without limitation customers and end users of Accused Instrumentalities, services based thereupon, and related products and/or processes, to directly infringe each and every claim limitation, including without limitation claim 1 of the '356 Patent, in violation of 35 U.S.C. § 271(b). Upon information and belief, Defendant's customers and/or end users have directly infringed and are directly infringing each and every claim limitation, including without limitation claim 1 of the '356 Patent. Defendant has actual knowledge of the '356 Patent at least as of service of this Complaint. Defendant is knowingly inducing its customers and/or end users to directly infringe the '356 Patent, with the specific intent to encourage such infringement, and knowing that the induced acts constitute patent infringement. Defendant's inducement includes, for example, providing technical guides, product data sheets, demonstrations, software and hardware specifications, installation guides, and other forms of support that induces its customers and/or end users to directly infringe the '356 Patent.

18. To the extent facts learned in discovery show that Defendant's infringement of the '356 Patent is or has been willful, 911 Notify reserves the right to request such a finding at time of trial.

19. As a result of Defendant's infringement of the '356 Patent, 911 Notify has suffered monetary damages in an amount adequate to compensate for Defendant's infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendant, together with interest and costs as fixed by the Court, and 911 Notify will continue to suffer damages in the future unless Defendant's infringing activities are enjoined by this Court.

20. Unless a permanent injunction is issued enjoining Defendant and its agents, employees, representatives, affiliates, and all others acting or in active concert therewith from infringing the '356 Patent, 911 Notify will be greatly and irreparably harmed.

PRAYER FOR RELIEF

Plaintiff prays for the following relief:

- A. A judgment that Defendant has infringed one or more claims of the '356 Patent;
- B. A permanent injunction enjoining Defendant and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with Defendant, from infringing the '356 Patent;
- C. An award of damages resulting from Defendant's acts of infringement in accordance with 35 U.S.C. § 284;
- D. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendant.

E. A judgment and order requiring Defendant to provide accountings and to pay supplemental damages to Plaintiff, including, without limitation, prejudgment and post-judgment interest; and

F. Any and all other relief to which Plaintiff may show itself to be entitled.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: January 23, 2017

Respectfully submitted,

/s/ Benjamin T. Wang
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